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No. 84-1102

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1984

ROBERT PHILIBOSIAN, in his official capacity as District Attorney for the County of Los Angeles, BOARD OF SUPERVISORS FOR THE COUNTY OF LOS ANGELES AND THE INDIVIDUAL MEMBERS THEREOF, and THE COUNTY OF LOS ANGELES,

Petitioners,

vs.

FEMINIST WOMEN'S HEALTH CENTER, INC., a California nonprofit corporation, and DUNCAN DONOVAN,

Respondents.

MEMORANDUM OPPOSING CERTIORARI

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This case concerns the attempt by the District Attorney of Los Angeles County to bury 16,500 aborted embryos and fetuses at a private cemetery with the knowledge that the cemetery has contracted with a religious group for the placing of a memorial plaque and the holding of a public religious memorial service commemorating the burial of the tissue. On June 29, 1984, the California Court of Appeal ruled that the District Attorney's proposed burial would violate the establishment clause of Article I section 4, the no preference of religion clause of Article I section 4, and Article XVI section 5 of the California Constitution. The District Attorney and the religious group, the Catholic League, Southern California Chapter, sought review in the California

Supreme Court, which on September 20, 1984, refused to hear the case, citing to the California Constitution in its order denying review.

Subsequently, the Catholic League sought a stay of the California Court of Appeal's judgment in this Court. Justice Rehnquist, as Circuit Justice, denied the application in a memorandum opinion dated October 11, 1984. Catholic League v. Feminist Women's Health Center, _____ U.S. _____, 83 L.Ed.2d 3, _____ S.Ct. _____ (1984). Justice Rehnquist took note of what is evident from the Court of Appeal's opinion, that it rests exclusively on independent and adequate state grounds, and wrote that this case "raises no substantial questions of federal law." 83 L.Ed.2d at 4. Justice Rehnquist concluded: "I am

satisfied that this Court would not wish to give this case plenary consideration." Id. at 5. This petition followed.

Because the California courts' decision in this case rested entirely on adequate independent state grounds, and because no federal question whatsoever is posed, the petition for writ of certiorari should be denied, and double costs should be awarded against petitioners pursuant to Rule 57.

DATE: February 14, 1985

Respectfully submitted,

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